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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/668,938 | 09/25/2000 | Volker Rasche | PHD99.130US | 2720 |
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| | | | EXAMINER KAO, CHIH CHENG G | |
| | | | ART UNIT 2882 | PAPER NUMBER |

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/668,938

Applicant(s)

RASCHE ET AL.

Examiner

Chih-Cheng Glen Kao

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

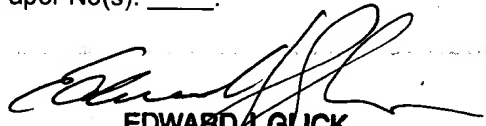
Claim(s) allowed: 18, 20 and 21.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 2, 4-10 and 22-28.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Regarding claim 1 and as noted by the Applicant, Hounsfield shows that the second revolution starts at a different instant during the motion signal than the first revolution. However, the Examiner disagrees with the opinion that this is an incidental result and does not imply intentionally basing the start of each x-ray cycle on the motion signal or considering the motion signal when determining the start of each x-ray cycle. As further illustrated in column 3, lines 6-12 and 35-50, the circuit, which is processed from the e.c.g., computes the rotational speed to ensure that "ON" periods of the radiation source occur, on the or a subsequent rotation, at angular positions such as alpha-beta. As seen in the first rotation or revolution in Figure 2(a)-2(c), the radiation source is on during the low-motion phase in the angular positions from 0 to alpha. Since the radiation source was not turned on in angular positions alpha to beta due to the high-motion phase, the rotational speed is computed and calculated intentionally to insure that the radiation source is turned on during the second rotation or revolution in the angular positions alpha to beta. Thus, the step of controlling the movement of the x-ray device comprising the step of controlling a start of each x-ray cycle based on the motion signal is done through this process disclosed by Hounsfield, which is not an incidental result and implies intentionally basing the start of each x-ray cycle on the motion signal or considering the motion signal when determining the start of each x-ray cycle. Furthermore, as noted by the Applicant, the rotation continues with only its speed of rotation being variable. This calculation or computation of the variable speed is the method step that implies the start of the x-ray cycle based on the motion signal.

Regarding claims 22 and 23, in response to the Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which the Applicant relies (i.e., defining an x-ray cycle in which x-ray positions along only a semi-circular arc are successively occupied) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Note that Hounsfield does disclose defining set x-ray position along a semi-circular arc (Fig. 2(c), 0 to beta).

Regarding claims 25-27, as noted by the Applicant, the Examiner does consider the x-ray position at 0 in Hounsfield to be an initial position and the x-ray position at beta to be a final position. This is analogous to the Applicant's interpretation of an initial position (Figs. 2 and 4, P0) and a final position (Figs. 2 and 4, P16) as defined by the Applicant. If the Applicant were to define the final position of Hounsfield at 360, this would be analogous to defining P0 in the second rotation as seen in Figures 2 and 4 of the Applicant's application as the final position. Obviously, as noted by the Applicant, this is not the case, since such a characterization of the initial and final positions would create a situation where there cannot be any movement of the x-ray device from the final position to the initial position between successive x-ray cycles and where the initial and final positions cannot be opposite one another on a semi-circular arc. Again, if the position at 0 of Hounsfield is defined as the initial x-ray position and the position at beta is defined as the final position, then the x-ray device will move from the final x-ray position back to the initial x-ray position (as seen from the transition from beta to 360, which is equivalent to 0, in Figure 2(c)) to begin a subsequent x-ray cycle at 0. Furthermore, the x-ray device is moved from the final x-ray position to the initial x-ray position in a time interval which allows the subsequent x-ray cycle to commence at a different phase of motion of the organ (Figs. 2(a) and 2(c)). In addition, the x-ray positions from 0 to beta define x-ray positions on a semi-circular arc with the initial position being opposite the final position (Fig. 2(c)).